

SFGate.com**FAMILY DEMANDS THE TRUTH****New inquiry may expose events that led to Pat Tillman's death**

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The battle between a grieving family and the U.S. military justice system is on display in thousands of pages of documents strewn across Mary Tillman's dining room table in suburban San Jose.

As she pores through testimony from three previous Army investigations into the killing of her son, former football star Pat Tillman, by his fellow Army Rangers last year in Afghanistan, she hopes that a new inquiry launched in August by the Pentagon's inspector general finally will answer the family's questions:

Were witnesses allowed to change their testimony on key details, as alleged by one investigator? Why did internal documents on the case, such as the initial casualty report, include false information? When did top Pentagon officials know that Tillman's death was caused by friendly fire, and why did they delay for five weeks before informing his family?

"There have been so many discrepancies so far that it's hard to know what to believe," Mary Tillman said. "There are too many murky details." The files the family received from the Army in March are heavily censored, with nearly every page containing blacked-out sections; most names have been deleted. (Names for this story were provided by sources close to the investigation.) At least one volume was withheld altogether from the family, and even an Army press release given to the media has deletions. On her copies, Mary Tillman has added competing marks and scrawls — countless color-coded tabs and angry notes such as "Contradiction!" "Wrong!" and "????"

A Chronicle review of more than 2,000 pages of testimony, as well as interviews with Pat Tillman's family members and soldiers who served with him, found contradictions, inaccuracies and what appears to be the military's attempt at self-protection.

For example, the documents contain testimony of the first investigating officer alleging that Army officials allowed witnesses to change key details in their sworn statements so his finding that certain soldiers committed "gross negligence" could be softened.

Interviews also show a side of Pat Tillman not widely known — a fiercely independent thinker who enlisted, fought and died in service to his country yet was critical of President Bush and opposed the war in Iraq, where he served a tour of duty. He was an avid reader whose interests ranged from

history books on World War II and Winston Churchill to works of leftist Noam Chomsky, a favorite author.

Unlike Cindy Sheehan — who has protested against President Bush because of the death of her son Casey in combat in Baghdad — Mary Tillman, 49, who teaches in a San Jose public junior high school, and her ex-husband, Patrick Tillman, 50, a San Jose lawyer, have avoided association with the anti-war movement. Their main public allies are Sen. John McCain, R-Ariz., and Rep. Mike Honda, D-San Jose, who have lobbied on their behalf. Yet the case has high stakes because of Pat Tillman's status as an all-American hero.

A football star at Leland High School in San Jose and at Arizona State University, Tillman was chosen Pac-10 defensive player of the year in 1997 and selected by the Arizona Cardinals in the NFL draft the following spring.

He earned a bachelor's degree in marketing from Arizona State and graduated summa cum laude in 3 1/2 years with a 3.84 grade point average. Ever the student, Tillman not only memorized the playbook by the time he reported for the Cardinals' rookie camp but pointed out errors in it. He then worked on a master's degree in history while playing professional football.

His 224 tackles in a single season (2000) are a team record, and because of team loyalty he rejected a five year, \$9 million offer from the St. Louis Rams for a one-year, \$512,000 contract to stay with Arizona the next year.

Moved in part by the Sept. 11, 2001, terrorist attacks, Tillman decided to give up his career, saying he wanted to fight al Qaeda and help find Osama bin Laden. He spurned the Cardinals' offer of a three year, \$3.6 million contract extension and joined the Army in June 2002 along with his brother Kevin, who was playing minor-league baseball for the Cleveland Indians organization.

Pat Tillman's enlistment grabbed the attention of the nation — and the highest levels of the Bush administration. A personal letter from Secretary of Defense Donald Rumsfeld, thanking him for serving his country, now resides in a storage box, put away by Pat's widow, Marie.

Instead of going to Afghanistan, as the brothers expected, their Ranger battalion was sent to participate in the U.S.-led invasion of Iraq in March 2003. The Tillmans saw combat several times on their way to Baghdad. In early 2004, they finally were assigned to Afghanistan.

Although the Rangers are an elite combat group, the investigative documents reveal that the conduct of the Tillmans' detachment — A Company, 2nd Battalion, 75th Ranger Regiment — appeared to be anything but expert as it advanced through a remote canyon in eastern Afghanistan on April 22, 2004, on a mission to search for Taliban and al Qaeda fighters in a village called Manah.

According to the files, when one of the humvees became disabled, thus stalling the mission, commanding officers split Tillman's platoon in two so one half could move on and the other could arrange transport for the disabled vehicle. Platoon leader Lt. David Uthlaut protested the move as dangerous, but he was overruled. The first group was ordered out in the late afternoon, with Pat Tillman in the forward unit. Kevin's unit followed 15 to 20 minutes later, hauling the humvee on an Afghan-owned flatbed truck. Both groups temporarily lost radio and visual contact with each other in the deep canyon, and the second group came under attack from suspected Taliban fighters on the surrounding ridges.

Pat Tillman, according to testimony, climbed a hill with another soldier and an Afghan militiaman, intending to attack the enemy. He offered to remove his 28-pound body armor so he could move more quickly, but was ordered not to. Meanwhile, the lead vehicle in the platoon's second group arrived near Tillman's position about 65 meters away and mistook the group as enemy. The Afghan stood and fired above the second group at the suspected enemy on the opposite ridge. Although the driver of the second group's lead vehicle, according to his testimony, recognized Tillman's group as "friendlies" and tried to signal others in his vehicle not to shoot, they directed fire toward the Afghan and began shooting wildly, without first identifying their target, and also shot at a village on the ridgeline.

The Afghan was killed. According to testimony, Tillman, who along with others on the hill waved his arms and yelled "cease fire," set off a smoke grenade to identify his group as fellow soldiers. There was a momentary lull in the firing, and he and the soldier next to him, thinking themselves safe, relaxed, stood up and started talking. But the shooting resumed. Tillman was hit in the wrist with shrapnel and in his body armor with numerous bullets.

The soldier next to him testified: "I could hear the pain in his voice as he called out, 'Cease fire, friendlies, I am Pat f—ing Tillman, dammit.'" He said this over and over until he stopped," having been hit by three bullets in the forehead, killing him.

The soldier continued, "I then looked over at my side to see a river of blood coming down from where he was ... I saw his head was gone." Two other Rangers elsewhere on the mountainside were injured by shrapnel.

Kevin was unaware that his brother had been killed until nearly an hour later when he asked if anyone had seen Pat and a fellow soldier told him.

Tillman's death came at a sensitive time for the Bush administration — just a week before the Army's abuse of prisoners at Abu Ghraib in Iraq became public and sparked a huge scandal. The Pentagon immediately announced that Tillman had died heroically in combat with the enemy, and President Bush hailed him as "an inspiration on and off the football field, as with all who made the ultimate sacrifice in the war on terror."

His killing was widely reported by the media, including conservative commentators such as Ann Coulter, who called him “an American original — virtuous, pure and masculine like only an American male can be.” His May 3, 2004, memorial in San Jose drew 3,500 people and was nationally televised.

Not until five weeks later, as Tillman’s battalion was returning home, did officials inform the public and the Tillman family that he had been killed by his fellow soldiers.

According to testimony, the first investigation was initiated less than 24 hours after Tillman’s death by an officer in the same Ranger battalion. His report, delivered May 4, 2004, determined that soldiers involved in the incident had committed “gross negligence” and should be appropriately disciplined. The officer became a key witness in the subsequent investigation. For reasons that are not clear, the officer’s investigation was taken over by a higher ranking commander. That officer’s findings, delivered the next month, called for less severe discipline.

The parents, protesting that many questions were left unanswered, found a sympathetic ear in McCain, who Mary Tillman later said was greatly admired by her son. Tillman was well known in Arizona because of his success there as a college and pro football player. McCain began to press the Pentagon on the family’s behalf, and a third probe finally was authorized. Its report was delivered in January.

The military is saying little publicly about the Tillman case. Most Army personnel who were involved in the Tillman incident or the investigations declined to comment publicly when contacted by The Chronicle. The inspector general’s press office also declined to comment, saying only that the new probe is openended.

Over the coming weeks, Pentagon investigators are scheduled to carry out new interviews with many of the soldiers, officers and others involved in the incident. As they carry out their reassessment, potentially controversial points include:

-- Conflicting testimony. In his Nov. 14, 2004, interrogation, the first investigator expressed frustration with “watching some of these guys getting off, what I thought ... was a lesser of a punishment than what they should’ve received. And I will tell you, over a period of time ... the stories have changed. They have changed to, I think, help some individuals.”

The investigator testified that after he submitted his report on May 3, higher-ranking officers permitted soldiers to change key details of their testimony in order to prevent any individual from being singled out for punishment.

“They had the entire chain of command (inaudible) that were involved, the [deleted], all sticking up for [deleted] ... And the reason the [deleted] called me in ... because the [deleted] ... changed their story in how things occurred and the timing and the distance in an attempt to stick up for their

counterpart, implied, insinuated that the report wasn't as accurate as I submitted it ..." the first investigator testified.

In another section of his testimony, he said witnesses changed details regarding "the distance, the time, the location and the positioning" in Tillman's killing.

Another disputed detail was whether the soldiers were firing while speeding down the canyon or whether they stopped, got out and continued shooting. In testimony in the third investigation, the soldiers said they did not stop. However, the medical examiner's report said Tillman was killed by three bullets closely spaced in his forehead — a pattern that would have been unlikely if the shooter were moving fast. Spc. Russell Baer, a soldier pinned down by gunfire on the hillside near Tillman, said in an interview with The Chronicle that at least two soldiers had gotten out of the humvee to fire uphill. One other soldier confirmed this account to a Tillman family member.

One soldier dismissed by the Rangers for his actions in the incident submitted a statement in the third investigation that suggests the probe was incomplete: "The investigation does not truly set to rest the events of the evening of 22 April 2004. There is critical information not included or misinterpreted in it that could shed some light on who is really at fault for this," he wrote.

-- Commanders' accountability. According to the documents and interviews, Capt. William Saunders, to whom platoon leader Uthlaut had protested splitting his troops, was allowed to change his testimony over a crucial detail — whether he had reported Uthlaut's dissent to a higher ranking commander. In initial questioning, Saunders said he had done so, but when that apparently was contradicted by that commander's testimony, Saunders was threatened with perjury charges. He was given immunity and allowed to change his prior testimony.

The regiment's commander, Lt. Col. Jeffrey Bailey, was promoted to colonel two months after the incident, and Saunders, who a source said received a reprimand, later was given authority to determine the punishment of those below him. He gave administrative reprimands to six soldiers, including Uthlaut, who had been seriously wounded in the face by shrapnel in the incident. Uthlaut — who was first captain of his senior class at West Point, the academy's highest honor — was dismissed from the Rangers and re-entered the regular Army.

"It seems grossly inappropriate that Saunders would determine punishment for the others when he shares responsibility for the debacle," Mary Tillman said.

Baer told The Chronicle that commanding officers were to blame for the friendly fire because they split the platoon and ordered it to leave a secure location in favor of a region known as a Taliban stronghold.

"It was dumb to send us out during daylight," said Baer, who was honorably discharged from the Rangers earlier this year and lives in the East Bay.

“It’s a well-known military doctrine that privates first learn going through basic training — if you are in enemy territory and you are stopped for a prolonged period of time, the best thing to do is to wait until nightfall. Why they thought that moving us out in broad daylight from our position, dragging a busted humvee slowly through a known hotspot after we had been stranded there all day was a good idea will forever elude me. Who made that decision? Bailey? Saunders? That’s what I want to know.”

-- Inaccurate information. While the military code gives clear guidance for informing family members upon a soldier’s death when cases are suspected of being a result of friendly fire, that procedure was not followed in the Tillman case. After Tillman’s death, the Army gave conflicting and incorrect descriptions of the events.

On April 22, the family was told that Tillman was hit with enemy fire getting out of a vehicle and died an hour later at a field hospital.

Although there was ample testimony that Tillman died immediately, an Army report — dated April 22, 2004, from the field hospital in Salerno, Afghanistan, where his body was taken — suggested otherwise. While it stated that he had no blood pressure or pulse “on arrival,” it stated that cardio pulmonary resuscitation had been conducted and that he was transferred to the intensive care unit for further CPR.

On April 23, all top Ranger commanders were told of the suspected fratricide. That same day, an Army press release said he was killed “when his patrol vehicle came under attack.”

On April 29, four days before Tillman’s memorial, Gen. John Abizaid, chief of U.S. Central Command, and other top commanders were told of the fratricide. It is not known if Abizaid reported the news to Washington. Mary Tillman believes that with her son’s high profile, and the fact that Rumsfeld sent him a personal letter, the word quickly reached the defense secretary. “If Pat was on Rumsfeld’s radar, it’s pretty likely that he would have been informed right away after he was killed,” she said. White House, Pentagon and Army spokesmen all said they had no information on when Bush or Rumsfeld were informed.

On April 30, the Army awarded Tillman a Silver Star medal for bravery, saying that “through the firing Tillman’s voice was heard issuing fire commands to take the fight to the enemy on the dominating high ground.”

On May 2, the acting Army Secretary Les Brownlee was told of the fratricide.

On May 7, the Army’s official casualty report stated incorrectly that Tillman was killed by “enemy forces” and “died in a medical treatment facility.”

On May 28, the Army finally admitted to Tillman’s family that he had been killed by friendly fire.

“The administration clearly was using this case for its own political reasons,” said the father, Patrick Tillman. “This cover-up started within minutes of Pat’s death, and it started at high levels. This is not something that (lower-ranking) people in the field do,” he said.

The files show that many of the soldiers questioned in the inquiry said it was common knowledge that the incident involved friendly fire.

A soldier who on April 23 burned Tillman’s bullet riddled body armor — which would have been evidence in a friendly-fire investigation — testified that he did so because there was no doubt it was friendly fire that killed Tillman. Two days later, Tillman’s uniform and vest also were burned because they were soaked in blood and considered a biohazard. Tillman’s uniform also was burned.

The officer who led the first investigation testified that when he was given responsibility for the probe the morning after Tillman’s death, he was informed that the cause was “potential fratricide.”

After they received the friendly-fire notification May 28, the Tillmans began a public campaign seeking more information. But it was only when the Tillmans began angrily accusing the Pentagon of a coverup, in June 2005, that the Army apologized for the delay, issuing a statement blaming “procedural misjudgments and mistakes.”

-- Legal liability. In testimony on Nov. 14, the officer who conducted the first investigation said that he thought some Rangers could have been charged with “criminal intent,” and that some Rangers committed “gross negligence.” The legal difference between the two terms is roughly similar to the distinction between murder and involuntary manslaughter.

The Tillmans demand that all avenues of inquiry remain open.

“I want to know what kind of criminal intent there was,” Mary Tillman said. “There’s so much in the reports that is (deleted) that it’s hard to tell what we’re not seeing.”

In Congress, pressure is building for a full public disclosure of what happened. “I am committed to continuing my work with the Tillman family to ensure that their concerns are being addressed,” said Rep. Honda. He added that he expects the investigation to do the following: “1) provide all factual evidence about the events of April 22, 2004; 2) identify the command decisions that contributed to Pat Tillman’s death; 3) explain why the Army took so long to reveal fratricide as the cause of Pat Tillman’s death; and 4) offer all necessary recommendations for improved procedures relating to such incidents.”

Patrick Tillman drily called the new Army probe “the latest, greatest investigation.” He added, “In Washington, I don’t think any of them want it investigated. They (politicians and Army officials) just don’t want to see it ended with them, landing on their desk so they get blamed for the cover-up.” The January 2005 investigation concluded that there was no coverup.

Throughout the controversy, the Tillman family has been reluctant to cause a media stir. Mary noted that Pat shunned publicity, refusing all public comment when he enlisted and asking the Army to reject all media requests for interviews while he was in service. Pat's widow, Marie, and his brother Kevin have not become publicly involved in the case, and they declined to comment for this article.

Yet other Tillman family members are less reluctant to show Tillman's unique character, which was more complex than the public image of a gung-ho patriotic warrior. He started keeping a journal at 16 and continued the practice on the battlefield, writing in it regularly. (His journal was lost immediately after his death.) Mary Tillman said a friend of Pat's even arranged a private meeting with Chomsky, the antiwar author, to take place after his return from Afghanistan — a meeting prevented by his death. She said that although he supported the Afghan war, believing it justified by the Sept. 11 attacks, "Pat was very critical of the whole Iraq war."

Baer, who served with Tillman for more than a year in Iraq and Afghanistan, told one anecdote that took place during the March 2003 invasion as the Rangers moved up through southern Iraq.

"I can see it like a movie screen," Baer said. "We were outside of (a city in southern Iraq) watching as bombs were dropping on the town. We were at an old air base, me, Kevin and Pat, we weren't in the fight right then. We were talking. And Pat said, 'You know, this war is so f— illegal.' And we all said, 'Yeah.' That's who he was. He totally was against Bush."

Another soldier in the platoon, who asked not to be identified, said Pat urged him to vote for Bush's Democratic opponent in the 2004 election, Sen. John Kerry.

Senior Chief Petty Officer Stephen White — a Navy SEAL who served with Pat and Kevin for four months in Iraq and was the only military member to speak at Tillman's memorial — said Pat "wasn't very fired up about being in Iraq" and instead wanted to go fight al Qaeda in Afghanistan. He said both Pat and Kevin (who has a degree in philosophy) "were amazingly well-read individuals ... very firm in some of their beliefs, their political and religious or not so religious beliefs."

Baer recalled that Tillman encouraged him in his ambitions as an amateur poet. "I would read him my poems, and we would talk about them," Baer said. "He helped me grow as an individual."

Tillman subscribed to the Economist magazine, and a fellow soldier said Tillman created a makeshift base library of classic novels so his platoon mates would have literature to read in their down time. He even brought gourmet coffee to brew for his platoon in the field in Afghanistan.

Baer said Tillman was popular among his fellow soldiers and had no enemies. "The guys who killed Pat were his biggest fans," he said. "They were really wrecked afterward." He called Tillman "this amazing positive force who really brought our whole platoon together."

He had this great energy. Everybody loved him.” His former comrades and family recall Tillman as a born leader yet remarkably humble. White, the Navy SEAL, recalls one day when “some 19-year-old Ranger came and ordered him to cut an acre of grass.

And Pat just did it, he cut that grass, he didn’t complain. He could have taken millions of dollars playing football, but instead he was just taking orders like that.”

Mary Tillman says that’s how Pat would have wanted to be remembered, as an individual, not as a stock figure or political prop. But she also believes “Pat was a real hero, not what they used him as.”

For the moment, all that is left are the memories and the thick binders spread across Mary Tillman’s dining room table in San Jose. As she waits for the Pentagon investigators to finish their new probe, she wonders whether they will ask the hard questions. Like other family members, “I just want accountability,” she said. “I want answers.”

‘IT’S HARD TO KNOW WHAT TO BELIEVE’

That’s the lament of Mary Tillman, above, a teacher of special education in a San Jose public school. She has long pressed the Army to reopen its investigation into the friendly-fire killing of her son, Pat Tillman, in a canyon in Afghanistan on April 22, . The persistence of Mary Tillman and her former husband, Patrick Tillman, was rewarded when the Pentagon’s inspector general opened a new inquiry in August, the fourth such probe. Mary Tillman says she hopes questions created by discrepancies in past testimony will finally be answered.

Story changes over time

An officer in Pat Tillman’s Ranger battalion who directed the first investigation into the soldier’s death served as a witness on Nov. 14, 2004, in the third investigation, which was led by Brig. Gen. Gary Jones. The first investigator complained that the officers in charge of the second invest-

igation had allowed Rangers involved in the shooting to change their testimony.

Threat of perjury charges

An excerpt from a March 3, 2005, memorandum by

Brig. Gen. Gary Jones describes how Capt. William Saunders, the commander of Pat Tillman’s Ranger company, was threatened with perjury charges. Jones’ memo said Saunders made false claims that he had informed his superiors that platoon commander Lt. David Uthlaut had protested orders given to him leading up to the incident. Despite this threat, Saunders was allowed to change his testimony and was granted immunity.

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/09/25/MNGD7ETMNM1.DTL>

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